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5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 FRANK UNDERHILL, JR., an individual,
9 Plaintiff,
10 vs.
11 FOR THE EARTH CORPORATION, an
Arizona Corporation; NELSON GRIST, an
12 individual; DOES I through X, inclusive; and
ROE ENTITIES XI through M, inclusive,
13 Defendants.

Case No.: 2:21-cv-01287-CDS-DJA

**STIPULATION AND ORDER TO
EXTEND THE DISCOVERY AND
DISPOSITIVE MOTION
DEADLINES**

(Eighth Request)

14 Plaintiff Frank Underhill, Jr. ("Plaintiff"), through his counsel, the Law Office of Byron
15 Thomas, and and Nelson Grist ("Mr. Grist"), hereby stipulate and agree as follows:

16 **A. Discovery Completed to Date.**

17 To date, the parties have exchanged initial disclosures of documents and witnesses pursuant
18 to FRCP 26(a)(1). Defendants served their First Supplement to Initial Disclosures on September 30,
19 2021.

20 Defendants served Interrogatories, Requests for Production, and Requests for Admission on
21 Plaintiff on November 18, 2021. Plaintiff served his responses to Defendants' Interrogatories,
22 Requests for Production, and Requests for Admission on January 3, 2022.

23 On February 11, 2022, Plaintiff served Requests for Admission and Requests for Production
24 on Defendant For The Earth Corporation. That same day, Plaintiff also served Requests for
25 Production on Defendant Grist. Defendant For The Earth Corporation served its responses to
26 Plaintiff's Requests for Admission and Requests for Production on March 29, 2022. Defendant Grist
27 served his responses to Plaintiff's Requests for Production on March 29, 2022.
28

B. Discovery Which Still Needs to Occur.

Plaintiff and Mr. Grist intends to take the respective depositions. The parties would need additional time to send out additional requests and to subpoena third parties after the deposition. The Plaintiff has attempted to take the deposition of the corporate representative of For the Earth Corporation. Plaintiff has sent deposition notices and other correspondence to For the Earth Corporation, but the correspondence has been returned. The Court has also had this issue when trying to serve documents on For the Earth Corporation. Dockets Nos 76, 78, and 81. In addition, there was no response to the Court's Order to Show Cause. So Plaintiff will prepare a sanctions motion concerning inadequate discovery responses and the failure to participate in discovery, which has hindered the Plaintiff's ability to gather the necessary information for his case.

C. Reasons Why Discovery Has Not Been Completed.

The Parties believed that they had reached a settlement in April 2022. ECF No. 21. In furtherance of that belief, the Court stayed all remaining case deadlines on April 8, 2022, while the Parties worked to finalize the settlement agreement, and complete the settlement terms. ECF No. 24.

Subsequently, a dispute arose as to the terms of settlement and Defendant filed a Motion to Enforce Settlement Agreement on January 13, 2023. ECF No. 36. After briefing was complete, the Court issued an order denying Defendant's motion on August 8, 2023. Thereafter, the case lay dormant until the Court issued an Order to Show Cause on April 11, 2024. ECF No. 48. The Court subsequently ordered the parties to submit a stipulation regarding the discovery schedule and participate in a mandatory settlement conference. ECF Nos. 54-55.

On May 16, 2024, the Parties submitted a Stipulation and Order to Extend the Discovery Deadlines (Second Request), which the Court granted. ECF Nos. 57-58. On May 23, 2024, the Court issued an order scheduling a mandatory settlement conference for August 7, 2024. ECF No. 59. Due to a scheduling conflict, the Parties subsequently agreed to continue the settlement conference to August 30, 2024. ECF No. 61. During the interim period, the parties wished to conserve their limited resources and focus on preparing for and participating in the settlement conference. On August 30, 2024, the parties participated in the settlement conference with Magistrate Judge Couvillier, but were unable to reach a settlement.

On September 9, 2024, the Parties submitted a Stipulation and Order to Extend Discovery Deadlines (Third Request) (ECF No. 64) which the Court granted on September 16, 2024. ECF No. 69. On November 21, 2024, the parties submitted their fourth request for discovery extension, which the Court granted on November 25, 2024. (ECF No. 71). In addition, Mr. Grist and For the Earth's counsel withdrew, but before the withdrawal the parties submitted a stipulation to extend time, to in part allow them time to find attorneys, which the Court approved. ECF No. 75. In addition, Plaintiff filed a motion to extend discovery further, which the Court granted. ECF No. 80. The parties sought a Seventh Request to extend discovery, which the Court granted. ECF Nos. 82 and 83.

In the Seventh Request Plaintiff pointed out that the, Corporate Defendant had not complied with this Court's order and retained counsel, which had impacted discovery and the Plaintiff's ability to get relevant information to prove its case, and to move the matter forward. This is still the case and Plaintiff needs more time than anticipated to negate this disadvantage.

In addition, the parties attempts to resolve this matter are moving forward and have made progress but because of the history of the parties more time is necessary to conduct more due diligence through additional third party subpoenas and written discovery. Plaintiff's counsel has been dealing with a nagging back injury, because of a fall, which has effected his ability to work for extended periods without pain. Mr. Grist is still dealing with the recent death of his sister as well. Plaintiff and Mr. Grist believe the foregoing demonstrates that they have been acting in good faith. To avoid another request the parties request sixty (60) days this period.

Based on the foregoing, the parties submit the instant Stipulation and Order to Extend Discovery Deadlines to complete remaining discovery and submit dispositive motions.

D. Proposed Schedule for Completing Remaining Discovery.

- **Discovery Cut-Off Date** – The July 31, 2025, discovery cut-off date shall be extended to September 29, 2025.
- **Dispositive Motions** – September 2, 2025, dispositive motions deadline shall be extended to, **October 29, 2025**, which is thirty-two (32) days after the discovery deadline.
- **Pretrial Order** – If no dispositive motions are filed, the Joint Pretrial Order shall be

1 filed thirty (30) days after the date set for the filing of the dispositive motions, which
2 is **November 28, 2025**. In the event dispositive motions are filed, the date for filing
3 the Joint Pretrial Order shall be suspended until thirty (30) days after the decision on
4 the dispositive motions or by further order of the Court.

5 Based on the foregoing, the Parties submit that these circumstances constitute good cause
6 and excusable neglect to extend the deadlines set forth above.

7 DATED this 10 th day of July 2025.

8 LAW OFFICES OF BYRON THOMAS

NELSON GRIST.

9 /s/ Byron E. Thomas

/s/ Nelson Grist

10 BYRON E. THOMAS, ESQ.

NELSON GRIST.

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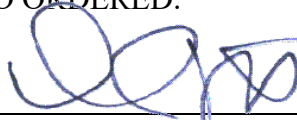
12 *Attorneys for Plaintiff*

Defendant Nelson Grist

13 *Frank Underhill, Jr.*

14 **ORDER**

15 IT IS SO ORDERED:

16 

17 Hon. Daniel J. Albregts

United States Magistrate Judge

18 Dated: 7/14/2025